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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,834	05/31/2005	Michael Kohler	1175/74230	2505

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12/19/2005

Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/530,834

Applicant(s)

KOHLER, MICHAEL

Examiner

Kurt Rowan

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4, 6-7, 9-18 is/are rejected.
- 7) ☒ Claim(s) 3, 5, 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pin and the elongate slot, the longitudinal grooves (claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because the reference numerals are confusing since the number 1 has been made in two different ways, resembling both a 1 and also

a 7 in different Figs. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 7, 9, 10, 11, 12, 14, 15, 16, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 7, 10, 11, 14, 15, lines 1 or 2, "it" is confusing since it is not clear what is being referred to.

5. Claim 9 recites the limitation "the longitudinal central axis" in line 3. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 13 recites the limitation "the condition part" in line 3. There is insufficient antecedent basis for this limitation in the claim. It appears that —the container part— would be correct.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, 4, 6, 11, 12, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Chamberlain (Des 217,663).

The design patent to Chamberlain shows a fishing hook holder having a container part (as shown in Figs. 1 and 4) with a cavity and a cover part as shown in Figs. 1, 2, and 3. Chamberlain shows the cover having two elements, one fixed to the container part and the other rotatably mounted between a first and second position, as shown in fig. 3, to provide a closable opening in the top to hold a fishing hook and /or fishing lure. Chamberlain shows C-shaped clamping means in Figs. 1-3. In reference to claim 18, Chamberlain discloses a fish hook.

9. Claims 1 and 10, 11, 12, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis.

The patent to Lewis shows a fishing hook container having a container part having a cavity which is taken as the inner housing and a cover part which is taken as the outer housing. In Figs. 9-10, Lewis shows several container parts (such as 18, 38 in the forward holder and 102, 104 in the rearward holder) and associated cover parts 106, 46 and that the container parts are firmly interconnected. Lewis shows C-shaped clamping means 58 in Fig. 5 and 62, 64, 66 in Fig. 6. Lewis shows a fish hook mounted on lure 54.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain as applied to claim 1 above, and further in view of Barefoot.

12. The patent to Chamberlain shows a container for a fishing hook as discussed above. Chamberlain does not disclose if the container floats on water. The patent to Barefoot shows a floating fishing hook and lure 20 container 22 which mounts on a fishing rod 12 as shown in Fig. 1 and disclosed in column 4, lines 63-64. In reference to claim 7, it would have been obvious to provide Chamberlain with a floating container so as not to lose the container if dropped in the water.

13. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain as applied to claim 1 above, and further in view of Fisher.

The patents to Chamberlain and Fisher show fishing lure and hook holders that mount on a fishing rod. Chamberlain has been discussed above and does not show longitudinal ribs on the container part or the cover part that extend parallel to the longitudinal central axis of the holder. The patent to Fisher shows ribs or grooves 37 on the sidewall of the container or holder cover and body. In reference to claims 9 and 14, it would have been obvious to provide Chamberlain with ribs or grooves as shown by Fisher for the purpose of providing a gripping surface for a user as taught by Fisher in column 3, lines 8-14. Also note Fisher shows knurling (not labeled but see Fig. 2) on the side edge of the collar of flange 38.

Allowable Subject Matter

14. Claims 3, 5, 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claim 13 and 15-17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Trefiak, Lysohir, Nelson, Thompson, Norwood, and Jardine show other fish hook holders mounted to a fishing rod.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan
Primary Examiner
Art Unit 3643

KR